

INDONESIA-CANADA NGO EXCHANGE PROGRAM

AN EVALUATION AND REPORT

A report submitted by the
Canadian Environmental Law
Research Foundation and the
Pollution Probe Foundation

February, 1986

CIELAP Shelf:
Canadian Environmental Law Research
Foundation
Indonesia-Canada NGO Exchange Program : An
Evaluation and Report

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1. Introduction

This document reports on and evaluates the first part of the Indonesia-Canada Non-Governmental Organization (NGO) exchange program which was undertaken in the fall of 1985. The program was funded by the Environmental Manpower Development in Indonesia (EMDI), which is a project of the Institute of Resource and Environmental Studies, Dalhousie University, Halifax, Nova Scotia and the Ministry of State for Population and Environment for the Republic of Indonesia. EMDI is funded by CIDA. It involved the placing of two representatives from NGOs in Indonesia with two sister NGOs in Canada. Mas Achmad Santosa of the Institute of Legal Aid of Jakarta and Mas Edi Waluyo of the Centre for Marine Alternative Development Studies, also of Jakarta, were the Indonesian participants. The Indonesian Environmental Forum (WALHI) organized the Indonesian side of the program. The Canadian host NGOs were Pollution Probe and the Canadian Environmental Law Research Foundation (CELRF).

2. Background and Objectives of the Program

In the fall of 1984, EMDI sponsored a conference entitled the "Indonesia-Canada Environment Conference" held at Mont-Sainte Marie, Quebec. A report from the NGO workshop at that conference suggested that there is a need to establish linkages and information exchanges on environmental concerns between Canadian and Indonesian NGOs. Such linkages, by providing a two-way flow of information and experience, will allow an expansion of the institutional capabilities of Canadian and Indonesian NGOs, will increase the awareness of environmental NGOs of development issues and, conversely, will increase the awareness of development NGOs of environmental issues.

It was further suggested that one means of doing this was an exchange of NGO representatives.

Drawing from that report, representatives of Pollution Probe, CELRF and WALHI developed various ideas as to the nature and substance of an exchange program. The idea was further refined at a meeting between Janine Ferretti of Probe and Erna Witoelar of WALHI at the Global NGO Meeting on Environment and Development in Nairobi, Kenya in February of 1985. When in Indonesia in July, 1985, Paul Muldoon of CELRF further discussed the proposal with WALHI and assisted interviewing various possible Indonesian candidates for the program. In September and October of 1985, the program was officially approved and plans made for the first part of the exchange program.

Objectives of the exchange program were to initiate contact and linkages between Canadian and Indonesian NGOs, to acquaint Indonesian NGOs with environmental problems faced by Canada and the manner in which Canadian NGOs address those problems and, finally, to acquaint Canadian environmental and development NGOs with current Indonesian environmental issues.

3. Financial Statement

I. DALHOUSIE UNIVERSITY - NGO EXCHANGE PROGRAM

	<u>BUDGET</u>	<u>AMOUNT SPENT</u>
Accommodations	\$ 4,620.00	\$ 2,514.53
Stipends @ \$35 per diem	2,940.00	3,195.14
Administration	3,000.00	3,000.00
Air travel to Quebec City	290.00	632.20
Accommodation (Muldoon & Ferretti)	288.00	194.00
Stipends @ \$35 per diem	210.00	185.98
Conference Registration	100.00	50.00
TOTAL	11,448.00	9,771.85
AMOUNT ADVANCED BY DALHOUSIE UNIVERSITY	10,000.00	
AMOUNT SPENT	9,771.85	
BALANCE OUTSTANDING	228.15	

II. ITEMS NOT INCLUDED IN ORIGINAL BUDGET - NGO EXCHANGE**

**PLEASE NOTE: Authorization for these expenditures was given December 6, 1985, per telephine conversation with Nancy Blair.

BOOKS

Purchased from CELRF	\$ 81.95
Purchases	194.40
	8.35
	8.50
	<u>34.72</u>
SUBTOTAL	327.92

GIFTS 70.00

Payment of \$600 to Jacqueline Garnett
for Vancouver portion of trip 600.00

TELEPHONE CHARGES

P. Muldoon	178.95
J. Ferretti	<u>34.82</u>

TOTAL AMOUNT \$ 1,211.69

4. Itinerary

The Indonesian participants arrived in Canada on the 28 October, 1985. EMDI played host to them prior to their attendance at a conference sponsored by the Canadian Council on South-East Asian Studies at Laval University, Quebec, 1-3 November, 1985. Janine Ferretti and Paul Muldoon also attended the conference and then returned with them to Toronto on 3 November. The participants stayed in Toronto from that time until 12 December. They then travelled to Vancouver, British Columbia and were hosted by Jacqueline Garnett of EMDI until their departure to Indonesia on 17 December, 1985.

Week of 4-10 November (Toronto)

- Introductions at CELRF/Probe
- attendance at Environmental Priorities Committee News Conference
- attendance at Canadian Civil Liberties Meeting and introductions with Hon. Ian Scott, Attorney General for Ontario
- attendance at English class (University of Toronto)
- meetings and dinner engagements with Pat Adams and Larry Solomon of Energy Probe
- observer at meeting of Projects for Environmental Priorities Committee
- sightseeing of Niagara peninsula, in particular, Niagara River and its dump sites threatening water quality in Lake Ontario

Week of 11-17 November (Toronto)

- attendances at English Classes (U of T)
- presentation made to CELA and CELRF on Indonesian NGOs
- reception held to welcome Indonesian participants at Pollution Probe with invited guests from other NGOs and various university faculty members
- attendance at Faculty of Environmental Studies and Faculty of Law, York University with presentation made in Professor Paul Emond's environmental law course
- tour of various courts and administrative tribunals in Toronto
- attendance at the annual general meeting of Ontario Environmental Network

Week of 18-24 November (Ottawa)

- observers at NGO CONSULTATIONS sponsored by Environment Canada for two days, introductions with Hon. Tom MacMillan, Federal Minister of Environment; and participants in chemical management workshop
- presentation on Indonesian environment problems to Ottawa-based environment and development NGOs, hosted by CUSO
- visited CIDA, including Paul Wolf, Environmental Advisor,
- visited Indonesian Embassy personnel
- meeting with Elizabeth May of the Public Interest Advocacy Centre

Week of 25 November - 1 December (Sarnia)

- attended environmental assessment hearings with CELA lawyers concerning expansion of tricol waste disposal facility in Sarnia for 4 days (See: APPENDIX 7.4)
- attended conference in Toronto sponsored by the Ontario Association of Legal Aid Clinics

Week of 2-8 December (Toronto)

- visited the Canadian Centre for Inland Waters, Burlington, Ontario and hosted by Mr. Eric McInnis and Dr. Jack Valentine
- interviewed two CELA lawyers concerning environmental law and practice in Canada
- attendance at public hearings concerning the regulation of the pesticide "Alachor" at Osgoode Hall Law Courts
- tour and interviews with officials of the Ministry of Environment (Ontario)
- visit to the Ontario Legislature and interviews with research staff of various political parties
- tours of various libraries and research centres in Toronto

Week of 9 December - (Toronto-Vancouver)

- tour of McMaster University and interview with Dr. Ross Hall, Toxicologist
- workshop at Pollution Probe with presentation on Indonesian environmental situation and attended by environment, development, and health NGOs and university students from southern Ontario

- preparation for trip to Vancouver on 12 December

In addition to the above activities, time was allocated for various social activities (such as evening with members of host organizations), reading and writing times (see various articles written by the participants in the APPENDICES) and many informal discussion periods both with members of host organizations and others in relevant areas.

5. Evaluation of the Program

5.1 Benefits of the Exchange

The Indonesian representatives experienced a number of benefits, including the following:

- an understanding of current environmental issues in Canada
- an understanding of the nature and workings of Canadian environmental NGOs
- insights into the Canadian political and legal processes and ways in which NGOs participate in those processes, both by lobbying and research efforts
- an opportunity to survey and take back to Indonesia relevant environmental literature
- first hand knowledge of preparation of environmental cases and sources of information

Canadian participants in the program benefitted through an increased awareness of current environmental issues in Indonesia, and the role of Indonesian NGOs.

In addition, it is expected that all parties will benefit from the lines of communication which have been established as a result of the first part of the program.

5.2 Possible Improvement of the Exchange

Although the program is judged to have been a success, some things might be done to improve future exchange programs.

a. Pre-Exchange Preparation and Briefing

It became clear at the commencement of the program that the Indonesian participants had relatively little understanding of Canada in general, and more particularly, of their host NGOs. Hence, a fair expenditure of time was required to properly inform them of many such issues.

This concern could be avoided by a more extensive briefing prior to the exchange.

Similarly, the host organizations had too little understanding of the specific expectations and needs of the Indonesians. This problem was approached quite successfully by each participant submitting a "Statement of Goals" for the exchange (APPENDIX 7.2). However, although most of their research goals were met, it would have been preferable to have a larger lead time with such information so as to design a program more tailored to the specific needs of the participants.

b. Length of Program

It was the concern of the participants that the length of the program was too short to accomplish all the intended goals, and more specifically, to do more detailed research in areas of professional interest.

Moreover, the hectic schedule meant that it was necessary to

be extremely cautious of "over doing it" at various points throughout the exchange.

c. Timing of Exchange

The fall of 1985 was unseasonably cold. The low temperatures together with the snowy conditions made it that much more difficult for the Indonesians to adjust to the Canadian climate.

Hence, it is suggested that the program be conducted in more favourable seasons.

d. Language Capability

Difficulties with language posed some problems for communication during the program.

e. Compatibility of Interest

It is important that care be taken in matching the interests of the visiting NGO representatives and the host NGO.

f. Institutional Support

Needless to say, the exchange program consumed a tremendous amount of time and energy in planning, preparation, briefing, scheduling and implementing the program.

It is suggested that in future exchanges, sufficient funds be included to allow one person to devote full-time attention to these duties.

6. Looking Toward the Future

a. Second part of the Exchange

It is suggested that the second part of the exchange program be carried out in September 1986. CELRF and Pollution Probe would each send a representative with the purpose to:

- learn about the environment and development issues in Indonesia
- learn about the operational aspects of Indonesian environment NGOs
- impart information and experience regarding Canadian environmental issues
- identify needs of Indonesian environment NGOs

The information and experience gained by the two Canadian NGO representatives would be used to:

- expand Canadian awareness of environmental and development issues
- enhance the hosting capability of the Canadian NGOs in future exchanges

It is recommended that the Canadian representatives take Indonesian language studies prior to going to Indonesia in order to make the most of the visits, and read material relevant to Indonesia

and the issues facing it; ie. English summary of state of the Indonesian environment.

b. Future Exchanges

Based on the issues raised in this report and on information gained from the Canadian visit to Indonesia an exchange would be organized for April, 1987.

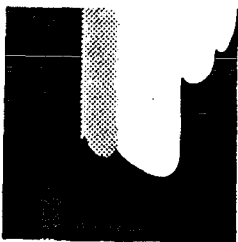
c. Cooperation outside of the Exchange Program

As a result of the program, thought has been given to ways in which Canadian environmental NGOs might assist Indonesian NGOs. For example, CELRF could assist LBH in developing a handbook on Indonesian environmental law, comparable to Environment on Trial, and Pollution Probe could assist WALHI in developing public education booklets on Indonesian environmental problem, comparable to the Acid Rain and Great Lakes Primers. It is likely that other mutual publishing efforts will be considered.

These joint projects could be a significant component in future exchange programs.

It is hoped that lines of communication now established will allow future cooperative approaches to a variety of environmental issues.

APPENDIX 7.1 Curricula Vitae of Participants



Canadian Environmental Law Association
L'Association canadienne du droit de l'environnement

243 Queen Street W., 4th Floor, Toronto, Ontario M5V 1Z4, telephone (416) 977-2410

CURICULLUM VITAE

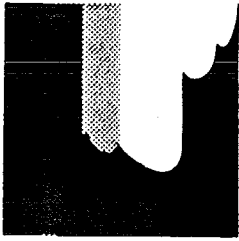
Nama : MAS ACHMAD SANTOSA (OTTA)
Date & Place Of Birth : March, 10. 1956 - Jakarta.
Sex : Male
Nationality : Indonesia
Marital Status : Married
Graduated : Faculty Of Law University Of Indonesia.

Present Occupation :

1. Lawyer/public Defender Institute Of Legal Aid Jakarta (Indonesian-Legal Aid Foundation).
2. Head Of Public Relation, Institute Of Legal Aid Jakarta.
3. Vice Chairman Indonesian Pollution Control Network/SKREPP (NGO)
4. Member of Pollution Research and Monitoring Team, State Minister of Population and Environment /MKLH (representing NGO's).

Activities in the environmental field :

1. Handling pollution case caused by Henkel Indonesia Co.Ltd , chemical factory at Cisalak Cimanggis Bogor West Java (water, air & noise - pollution) ; representing affected peoples.
2. Handling pollution case caused by DDT Formulator Company (Montrose-Pestindo Nusantara Co.Ltd.) at Citeurep Bogor West Java.
3. Co. Author " The Report From Cisalak Bogor; A. Case Study on Pollution Caused By PT. Henkel Indonesia and The Fighting of The People to Realize their Rights for a Healthy Environment ". (An Earthscan NGO Fellowship Study).
4. Co. Author " The Guidelines Book; How to use Pesticides in The Right - Manner " (Nearly finish). This Project funded by - Indonesia Environmental Forum (WALHI).
5. Study Minamata Pollution Case (Shiranui Sea Japan) in Minamata city- and Kumamoto prefecture (July, 4. 1984 - August, 4. 1984). Invited by ASIA - MINAMATA SOLIDARITY NETWORK and DEPARTMENT OF NEUROPSYCHIATRY, FACULTY OF MEDICINE , KUMAMOTO UNIVERSITY , JAPAN.
6. Attended at International Seminar Held by CAP. Penang - ESCAP : " Legal Approaches to Social Problems of Low Income Groups " ; July, 81.
7. Preparing The Alternatives draft of Governmental regulations concerning " Water Pollution Control " and " Drinking Water ".



Canadian Environmental Law Association
L'Association canadienne du droit de l'environnement

243 Queen Street W., 4th Floor, Toronto, Ontario M5V 1Z4, telephone (416) 977-2410

Others :

1. Member of Commission of Public Legal Education Program (Jakarta-City Metropolitan Government Project).
2. Lecturer " Economic Law " at The Faculty Of Economy University of Indonesia.

000000000000000000

CURRICULUM - VITAE

NAME M. Edi Waluyo

ADDRESS Jl. Simpang Baru 10
Semarang 50132
Jawa Tengah, INDONESIA

DATE OF BIRTH 25th August 1960

SEX Male

MARITAL STATUS Single

CLUB 'Kaha Setya Ehuana' / KSB
Environmental Social Fund
Jl. Suyudono 200
Semarang 50148

'Pusat Studi Pengembangan Kelautan' / PSPK
Centre for Marine Alternative Development Studies
JL Mandala VII/17
Jakarta 11440

HOBBIES Reading and swimming
Environmental and outdoors activities

EDUCATION Elementary School (1967-1971)
Junior High School (1972-1974)
Senior High School (1975-1977)
Faculty of Civil Engineering,
University of Islamic of Sultan
Agung (UNISSULA) Semarang (1978-present)

ACTIVITY In club
KSB: 76-77 active partner/member of club
78-79 environment section of club
80-81 club president
82-83 manager of applied technology section
of club (application of low-energy
stoves KSB - as joint activity with
WAHLI, and funded by ATI)
84-85 manager and consultant for mangrove
planting in pond fisheries and
astuarine area, to help solve the
problems associated with pond fisheries

PSPK: 83-84 member of club
85-86 associate director and
research associate

ACTIVITY (cont'd)

Other

- 1979 Announcement of Climbers Home Base
and Environmental Discussion
-Ranupane Gunung Semeru Malang, East Java
- 1980 Second Nature Lovers Meeting and Training
-Krakal Beach, Wonosari, Jogjakarta
- 1981 Second Environmental Conservation Course
by Indonesian Environmental Forum (WALHI)
-Cibodas, Bogor, West Java
- 1982 Second Mangrove Ecosystem National Seminar
by Man and Biosphere (MAB)
-National Oceanographic Institute (LON)
Indonesian Institute of Science (LIPI)
Baturraden Purwokerto, Segara Anakan Bay,
Cilacap, Central Java
- Committee of the Sixth Environmental
Conservation Course by Semarang Nature
Lovers Communication Forum (KOMPAS)
-Indonesian Environmental Forum (WALHI),
Karanggeneng, Ungaran, Central Java
- 1983 Monitoring of Industrial Wastes along the
Kaligarang River
-Banyumanik spondol, Semarang, Central Java
- Second Environment National Meeting by
Indonesian Environmental Forum (WALHI)
-Hegarmanah, Bandung, West Java
- 1984 Planting Project of Mangrove in the pond
fisheries area (tambak) by Kaha Setya
Bhuana (KSB)
- Tapak Tugurejo, Semarang, Central Java
- Second Small Fishermen Workshop, Asian
and Pacific Region
-Asian Cultural Forum on Development (ACFOD)
Ban Phae, Rayong, Thailand
- 1985 National Seminar of Marine by Centre for
Marine Alternative Development Studies
-Jakarta
- Team Survey, Small Pond Holders Land
Rehabilitation Project - Joint Survey
TOOL Netherland/WAHLI/KSB
-Tapak Tugurejo, Semarang, Central Java

Semarang, November 198

M. Edi Waluyo

APPENDIX 7.2 Statement of Goals for the Exchange Program Submitted
by the Participants

OTTA'S OUTLINE

I. INTRODUCTION

- (a) legal system in Canada;
- (b) environmental legislation in Canada;
- (c) the government policy in the environmental sector.

II. MAPS OF POLLUTION IN CANADA & THE SOURCES

III. THE ENVIRONMENTAL NGOS

- (a) funding;
- (b) manpower (the quality of the NGOs people);
- (c) independence;
- (d) prospects;
- (e) role as a people motivator, organizer, conscious-raiser.

IV. PUBLIC PARTICIPATION IN ENVIRONMENTAL IMPACT ASSESSMENT

- (a) legal guarantee of public participation in the process;
- (b) the effectiveness of public participation;
- (c) the constraints;
- (d) EIA as a tool of social control;
- (e) the effectiveness of EIA in preventing environmental damage and pollution.

V. ROLE OF NGO, LAWYERS & LEGAL RESEARCHER TO REALIZE THE PEOPLE'S RIGHTS AND TO CHOOSE THE SOLUTIONS

- (a) NGO as a legal reformer;
- (b) pollution case litigation and effectiveness;
- (c) objectivity of the judges;
- (d) capability of the victims'/people's lawyers;

(e) burden of proof;

(f) class action suit;

(g) cost of trial;

(h) the successful pollution case stories (if any).

VI. CONCLUSIONS

STUDY OUTLINE - EDI WALUYO

- I. INTRODUCTION
 - a. nature of pollution problems in Canada
 - b. sources of pollution
 - c. efforts to prevent and protection by NGO', (also by government)

- II. MAPS
 - a. maps raw materials/services area industry (where)
 - b. maps of planning industrial zone development
 - c. maps main industrial zone; and maps second industrial zone (to support main industrial zone)
 - d. maps pollution zone

- III. PREVENTIVE AND PROTECTIVE MEASURES
 - a. what is done by government, which mechanisms
 - b. what is done by NGOs, which mechanisms
 - c. role of university (as social control with problems in case pollution/environment)
 - d. what is the relation and introduction between government, NGOs, and university in efforts for solving pollution and environment problems
 - e. obstacles to growth of NGOs

- IV. PUBLIC PARTICIPATION IN ENVIRONMENTAL IMPACT ASSESSMENT
 - a. legal guarantee of public participation in the process
 - b. the effectiveness of public participation
 - c. the constraints
 - d. EIA as a tool social control
 - e. the effectiveness of EIA in preventing environmental damage and pollution

- V. THE ENVIRONMENTAL NGOS
 - a. funding
 - b. manpower (the quality of NGOs people)
 - c. independence
 - d. prospects
 - e. role as a people motivation, organizer, conscious-raiser
 - f. obstacles to growth of NGOs

VI. APPLIED MODERN TECHNOLOGY

- a. the extent to which modern technology is applied to prevention, protection, and/or solution of pollution problems
- b. how applied modern technology is developed and produced

VII. ENVIRONMENTAL DESIGN AND PLANNING

- a. what future design and planning by government in industrial development
- b. what future design and planning by NGOs (mainly pollution and environmental problems)
- c. what effort to encourage pollution prevention and solution to industrial pollution problems

APPENDIX 7.3 Evaluations Submitted by the Participants

THE INDONESIA-CANADA NGO EXCHANGE PROGRAM: SOME REFLECTIONS
ON ITS IMPORTANCE AND IMPLEMENTATION

A. The Emergence of Indonesian Environmental Law

The development of Indonesia's environmental law was in response to the government's policy in the industrial field. Industrial policies were directed toward expanding job and business opportunities; improving export capabilities and stabilizing foreign exchange; supporting regional developments and utilizing natural resources. Hence, in the 1970's, the government invited foreign and national entrepreneurs to invest their capital in industrial export sectors. At that time the industrial growth was increased without control and supervision to the possibilities of pollution and environmental damage.

In 1978, the Indonesian government began to devote special attention to environmental preservation and pollution control. At that time, it formed the ministry of population and environment.

In 1982, through a long process among which included some hearings with various environmental NGO's, the government promulgated the new act, namely Act No. 4 of 1982, concerning Basic Provisions for the Management of the Living Environment. This Act will serve as the basis for preventing pollution and environmental damage to support continued development.

When reviewing some of the main features of this Act, it is fair to say that it is a step forward. Some of its provisions include:

- the rights and obligations of each individual to participate in the management of the living environment (article 6);

- the obligation of the industrialist to establish environmental impact analyses (article 16);

- the imposition of "strict liability" in certain circumstances (article 21);

- recognition of the role of Non-Governmental Organizations (NGOs) as being supportive in the management of the living environment.

B. The Role of NGOs

Before this Act can truly be considered a step forward, it must be supported by implementing regulations, which have yet to emerge. Further, it is also necessary to have the advantage of legal specialists, scientists, EIA consultants, environmental teachers, capable civil servants and environmental NGOs which are proficient in performing critical functions in their self assigned missions.

In regard to NGO's, their tasks have traditionally been defining the issues, marshalling support for these issues and supporting effective action directly or indirectly, on these issues. The critical functions of NGOs is very important, particularly in a country where the level of public awareness is very low. NGOs' valuable expertise and experiences serve as a conscious raiser for the people and as a pressure group.

We also must have an expert in exploring and investigating pollution cases and dependable lawyers for serving legal aid for pollution victims.

Why should the above role be performed by NGOs? First, because of their non affiliation to any political party, they are more objective. Further, because of their grassroots origins, they understand the concerns of the public.

C. Reflections of the NGO Exchange Program

Studying about environmental problems and legislation in Canada for about six weeks is too short. It did however, provide an opportunity to gather materials and contact person relevant with my interest. The materials like environmental law books, results of interview with key environmental personnel in Canada, materials from seminars, workshops will make accessible information how other countries have addressed problems facing us today.

(a) Information Gathering

Data exchange and information with the Canadian contact persons will be very useful. The material received is quite important because to get environmental materials (particularly environmental textbooks) is very difficult.

During my work with CELA/CELRF, we have explored the possibility of cooperating to writing and publishing an environmental law handbook that will describe and analyze the existing environmental legal system in Indonesia and how Indonesia can benefit from the the Canadian experience in developing its environmental laws. It is anticipated that the book will be a benefit for Indonesian judges, prosecutors, lawyers, civil servants, students, NGOs and the concerned citizenry.

The experience with CELRF was important because of their vast experience with writing and publishing in the environmental field. Most notably, their landmark texts, including Environment on Trial and Environmental Rights in Canada provide the basic framework for Canadians on how to exercise their rights to defend their environment.

Participation by NGO's In the Electoral Process

Apart from information and data collection roles, the exchange program was very useful in examining how Canadian NGOs affect the electoral process. For example, "The Project for Environmental Priorities" was a collective effort by Ontario NGOs which sends questionnaires to all candidates for provincial elections and then reveals to the public which candidates are sympathetic toward the goals for environmental protection. Some sort of parallel project would be very useful in Indonesia. Such an initiative would not only help educate politicians but the public also in terms of what are the current environmental issues.

Public Hearings

Another interesting and useful aspect of the exchange was the experiences I had with respect to the public hearing process for environmental matters. In particular, attendance at the

public hearing for Tricil Ltd. 's application to expand its chemical landfill operation in Moore Township in Sarnia, Ontario was of particular relevance.

The importance of understanding these process is that Indonesia is currently preparing the regulations that will implement the EIA process. The role of public hearings in this process is still a matter of debate. With my experience in Canada, I can now add a new dimension to the arguments advanced in this debate. Some of the issues in Canada I found of particular relevance include those relating to intervenor funding, providing expert witnesses to local peoples and ensuring the objectivity of the members of the tribunal hearing the proceeding. Obviously, the the cost and complexity of such a process must be compared to its importance in protecting the people and future generations.

In addition to observing the public hearing process on the EIA process, I also got a chance to observe the public hearing with respect to the Alachlor Review Board. The Alachlor Review Board was established by the Minister of Agriculture in accordance with the Pest Control Products Regulations.

The Alachlor Reivew Board was announcing public hearings and calling for input from person and organizations interested in the herbicide, (Alaclhor), becасue of recent studies suggesting that it may cause cancer. Traces of the chemical have been found in southern Ontario water supplies. In early 1985, the Minister of

Agriculture can Lasso (the trade name for ALaclhor) a restrictive temporary registration which expired on December 31, 1985. Pursuant ot the Pest COntrol Product Regulation, Monsanto Corp. applied changes 8in the status of its product.

From this public hearing, at least I could know the idea of how the federal public hearing process works and some of the technical legal issues surrounding the process.

Conclusions

It will be difficult to explain all the valuable experiences that I had during myu stay in Canada. What I can say is that the work with CELRF, CELA and other ENGO's in Canada has continued to inspire me. I got many ideas to make my work in Indonesia that much more productive and effective.

MAS ACHMAD SANTOSA
Institute of Legal Aid,
Jakarta, Indonesia.

APPENDIX 7.4 Newspapers Clippings from Participants' Excursion
to Sarnia, Ontario

surprises Indonesians

BRIGDEN — The Canadian practice of holding public hearings to decide environmental issues has taken two visitors from Indonesia by surprise.

Mas Achmad Santosa and Edi Waluyo, participants in a Canadian-Indonesian exchange program for non-governmental organizations, were surprised because in their country all environmental hearings are held behind closed doors with no public input.

The two visitors got a first-hand look at the hearing process this week by attending a consolidated provincial hearing into Tricell Ltd.'s application to expand its chemical landfill operation in Moore Township.

Both men said Tuesday they find the open hearing process interesting and will be trying to implement a similar system when they return to their homeland.

"We want to push the government (in Indonesia) to give the chance for the public to take part in the decision-making process," Mr. Santosa said.

Mr. Santosa is a public defender and public relations officer for the Institute of Legal Aid in Jakarta, the country's capital city and Mr. Waluyo is the associate director and research associate for the Centre for Marine Alternative Development Studies in Semarang.

Both men are in Canada on fact-finding missions organized through the Canadian International Development Agency and the Ministry of Population and Environment in Indonesia and Dalhousie University in Halifax.

Mr. Santosa said he is in Canada to learn more about the role of environmental non-governmental organizations who handle pollution matters related to industries. He also wants to find out how to enhance the environmental consciousness and awareness of the general public in Indonesia.

During his stay in Canada, Mr. Santosa is working for the Canadian Environmental Law Association — a group involved in the Tricell hearing. Mr. Waluyo is working for Pollution Probe — a Toronto-based group that is also involved in the Tricell hearing.

While Mr. Santosa is interested in the legal aspects involved in Canadian environmental issues, Mr. Waluyo is concentrating on research that could help Indonesian officials battle pollution problems. "I hope I can prepare a way of preventing pollution," he said.

Pollution from industries is a problem in the southeast Asian country of 150 million, although only in recent years has the government taken steps to solve the problem.

The country didn't have an Environment Minister until 1976 and it wasn't until 1982 that an Environment Act was passed.

Mr. Santosa said the government is currently attempting to put in place regulations for the Environment Act something he will be involved in once he returns to Indonesia in mid-December.

He indicated he would be using information from his Canadian visit to put together the new regulations.

Mr. Santosa said the level of public awareness of environmental issues is low in his country and the environment has become a "new issue."

Although Mr. Santosa and Mr. Waluyo both want to see public hearings in their country, they believe it will take a long time, possibly 10 years, before this occurs.

Mr. Santosa said public hearings may be costly, but they are important because they protect the interests of "people and future generations."

He said he appreciates the Canadian government's practice of holding public hearings, but was a little surprised that only a few people attended the Tricell hearing this week.

By attending these hearings, he said, the people can determine the "problem" and "present their own case in the future."

Mr. Santosa and Mr. Waluyo, who have been in Canada for more than a month, are scheduled to leave this area and begin a cross-Canada trip that will take them to several environment-related functions.

Poor public turnout surprise to Tricil hearing observers

BRIGDEN — Two of the keenest observers at the Tricil landfill site hearing this week, are Indonesian students who plan to take their impressions of the public participation process back to their homeland.

"We wanted to see the public's environmental consciousness. We're working toward public hearings" in Indonesia, said Mas Achmad Santosa, public relations officer for the Institute of Legal Aid in Jakarta. But he and M. Edi Waluyo, associate director and research associate at the Centre for Marine Alternative Development Studies in Jakarta, said they were surprised

the sessions this week attracted few members of the public.

"I saw only a few people here today," Santosa said. "This is a good time for people to learn, so next time they can identify problems. It's a pity few people are here."

The consolidated board hearing into an application by Tricil (Sarnia) Ltd. to expand its landfill site near here resumed this week after four weeks of evidence in September and October.

Santosa said his country approved an environmental management act in 1982. "There is no mechanism in place now for public

hearings in the act, but we hope to have them soon . . . We have to see, we have to learn, so we can push the government to give the public a chance to be involved in the decision-making on environmental matters."

Santosa said there is concern that forests are being cut down and not replaced, causing flooding in some areas.

Waluyo said industrial pollution is also an issue. He is looking at pollution-control methods now used in Canada and is helping to prepare drinking water standards for his country.



Sid Rose

M. Edi Waluyo, left, associate director and research associate at the Centre for Marine Alternative Development Studies in Jakarta, Indonesia, and Mas Achmad Santosa, public relations officer for the Institute of Legal Aid in Jakarta, discuss environmental hearing procedures with Ray Kuszelewski of Toronto, a student with the Canadian Environmental Law Association.

St. Clair River blob surfaces at hearing into waste site plan

BRIGDEN — The toxic blob in the St. Clair River surfaced at a consolidated hearings board session Wednesday into an application to expand an industrial waste operation in Moore Township.

Lambton County planning director Bill Hollo told the hearing area industries have been traditionally capable of handling "85 to 95 per cent of their own waste" and he had no reason to believe that would not continue.

"We're all aware of the toxic blob in the St. Clair and other alleged problems," said Ian Blue, lawyer for the Ontario Waste Management Corporation. "Do you still say the county is able to take care of its own waste?"

Hollo repeated his earlier claim.

"The water quality in the area has been improving annually for some years."

Hollo said he could see nothing wrong with the Tricil application, except it does not fit in with the Moore Township official plan.

The company proposes to expand its industrial waste site by adding 26 hectares (64 acres) to its current 40-hectare (100-acre) site on Telfer Sideroad.

About half the land in the proposed expansion is zoned for industrial use and the other half is zoned agriculture.

In other testimony Wednesday, Lambton Anti Pollution Association spokesman Bill Sim said his group concedes waste management operations such as Tricil (Sarnia) Ltd. must exist to deal with waste products from a highly industrialized area such as the Chemical Valley.

Sim, a Moore Township farmer, said the association believes "we have an obligation to local industry to accept local waste but we don't believe waste should be brought in from out of the province or from out of the country."

He said residents in the vicinity of the Telfer Sideroad plant operated by the company should be able to enjoy the environment the same as people in other areas.

Sim said often area residents had been forced to move indoors because of an irritating blue haze from the company smoke stack.

The problem has not been so pronounced recently, he said.

"It has been reduced in past weeks. I wouldn't suggest it had anything to do with the hearing," Sim said.

Sim also told the hearing it was his opinion that land values in the area had been reduced because of the plant. He said a recent survey of land prices had shown Moore farm-

land was valued at about the same price as Sombra Township farmland.

Sim said the Moore land should have a higher value than Sombra land because it is more productive and closer to Sarnia.

He said at least one land deal fell through recently after a prospective buyer visited the property a second time when the wind had shifted and caused smoke from the Tricil stack to blow over the property.

Sim said, however, residents are not so concerned with "blue haze" caused by the Tricil stack as they are with contamination of water supplies on farms where wells are often the only source of potable water.

"You can turn off the stack but if the ground water becomes contaminated how do you turn a dump off? If the water goes bad and is rendered unfit for human or animal consumption, we're out of luck. Large quantities are needed daily."

Sim said a contingency plan offered by the company to provide \$5,000 to cover the cost of providing fresh water is inadequate.

"And in any case, my cattle prefer water to money."

Sim said the association would favor a local committee to monitor the Tricil site and the company operations.

Such a committee — which might be composed of association members, a member of Moore Township council, environment ministry staff and a Tricil representative — should have access to the company property, to test results carried out by the company, as well as the ability to call in independent expert technical advice if needed.

Tricil would be responsible for all or part of the costs of consultants, Sim suggested.

Sim said if the company's application to expand its operation in Moore is approved by the board, "we want safeguards to protect our water and our air."

He favors a five-year limit on any approval.

The hearing resumes Monday.

APPENDIX 7.5 Article Authored by Mr. Santosa for the CELA NEWSLETTER

LEGAL SOLUTIONS TO ENVIRONMENTAL PROBLEMS
IN INDONESIA

Indonesia can best be visualized as a series of islands, over 13,600 in total, with a vast diversity of cultures, population densities and ecological settings. The main island of Java, with a population of over 91 million, is less than one-half the size of Ontario. On a comparative scale, Indonesia is the fifth most populated nation in the world.

Like many developing countries, it has been attempting to balance the often contradictory goals of economic growth and environmental conservation. Canada has for some time now been assisting in Indonesia's environmental programme. One of the main participants is the Environmental Manpower Development in Indonesia Project (EMDI), undertaken by the Institute for Resource and Environmental Studies at Dalhousie University and supported by the Canadian International Development Agency (CIDA), seeks to enhance Canadian-Indonesian co-operation in environmental management through various programmes. These include: Indonesian training in Canada; technical assistance to university-based environmental study centres in Indonesia; provision of information and equipment; and support for governmental and non-governmental programmes.

Last summer, EMDI sponsored an environmental law conference in Indonesia. This conference brought together environmental law specialists from both countries in an attempt to share common experiences and establish important professional links. Another aspect of the programme was the establishment of a pilot exchange programme between Canadian and Indonesian non-governmental organizations. The programme, co-sponsored by Pollution Probe and CELRF-CELA, was recently host to Mr. Mas Achmad Santosa of the Institute of Legal Aid based in the capital of Indonesia, Jakarta, and Mr. M. Edi Waluyo, of the Centre for Marine Alternative Development Studies. Through the programme, the exchange fellows visited various regions throughout Canada to gain insight into the Canadian situation and establish information exchange networks for their own particular activities back in Indonesia.

Mr. Santosa, who is a lawyer specializing in environmental, human rights and labour cases, spent six weeks at the offices of CELRF-CELA as part of the exchange programme. In an effort to provide Canadians with greater insight into the Indonesian experience, he has prepared the following article.

Following the years of Dutch Colonial rule in Indonesia, the current government has taken some initial steps to recognize environmental issues. For example: Act No. 5/1960 Basic Law on Agriculture; Act No.9/1960 Basic Law on Health; Act No.5/1967 Basic Law on Forestry; and many other guidelines and regulations.

The acts and regulations inherited from the Dutch lacked any clear statements reflecting a recognition of the vulnerability of the natural environment or peoples' anxiety about the problem of pollution. Besides lacking any official sanctioning of environmental concerns, there were no requirements for companies or factories to take steps to ensure the ecological well-being of their operations; neither were there any regulations enabling victims to claim indemnity from polluters.

Today, compared to other members of the Association of South East Asian Nations (ASEAN), Indonesia is very slowly moving to regulate environmental matters. At present, settlement in many cases is still unresolved; and examples of inability to respond or solve pollution problems is very real.

As a consequence of these outstanding disputes, which in general affect the poor communities (the majority of the Indonesian population), it is seldom that these disadvantaged citizens take the legal route in trying to resolve their conflicts. Sometimes radical steps are taken and victims of pollution act outside the law.

Some poignant examples can be put forward, such as the case of February 16, 1980 when some 200 people from the Village of Banjaran, in West Java, set a United Chemical Industry Co. Ltd. factory ablaze because the



local inhabitants were angry at factory owners. The company had promised to compensate the inhabitants whose rice fields were contaminated by the factory's waste effluent. The factory manufactures hydrochloride, nitrium hydroxide, and calcium chloride among other chemicals; but possesses a license only for the manufacture of medical drugs. The factory operators, aware that supervision by local government officials is lax, were not worried about being impeded in their illegal operations.

Another recent example took place in the Village of Cislak Cimanggis, where Henkel Co. Ltd. of West Germany produced ingredients for shampoo, tooth paste, soap, etc. Various forms of pollution were being caused by this factory including: foul smelling air, contaminated well water of local residents, and very loud noise from the factory that continued 24 hours a day. Added to this was the fear of local inhabitants that their homes would be flooded if a heavy rainfall should take place, because of poor planning when the factory was constructed.

No firm steps were taken by Henkel or the local government to rectify this unbearable situation, so in November, 1983 a noisy crowd of angry protesters smashed the factory walls. Clearly, one of the factors causing delay in solving these and other environmental cases is Indonesia's inadequate legal framework.

On March 11, 1982 the Indonesian Government legislated Act No. 4/1982 concerning Basic Provisions for the Management of the Living Environment. A look at the articles of this legislation indicate that it is a step forward for the Indonesian environment. These articles include:

- The rights and obligations of each individual to participate in the management of the living environment (article 6);
- The obligation of the industrialist to establish environmental impact analyses -- provision for exemptions has been made (article 16);
- Recognition of the role of Non-Governmental Organizations (NGOs) as being supportive in the management of the living environment (article 19). In performing their supportive role, NGOs function as a means of involving as many members of the community as possible in the effort to attain environmental management goals.
- The duty to prove "strict liability" (article 21). It is known that the problem of proving (bringing forward the evidence) that there is pollution has become an interesting issue for both lawyers and environmentalists. This is because victims are not able to provide the technical equipment necessary to detect and prove the existence of pollution.

The strict liability system places the onus on the defendant to prove that he is not responsible in the matter. Under the current rules of Civil Procedure, victims are obliged to prove the faults of the defendants. Unfortunately, the system in article 21 is

not valid for all cases. Strict liability will be conferred electively in cases to be determined by the implementing regulations.

For this legislation to be effective, implementing regulations are still necessary. But the existence of the Act itself is raising questions: Which law can be used to fight environmental cases as long as the rules of implementation are not yet established?

Ideally, the wording of such acts, government regulations, Presidential decrees, etc. should be given priority, remembering to involve the community in the process at both the legislative and executive levels.

It can be hoped that the laws will be responsive to the community as a whole instead of oppressing the people.

The effectiveness of the above mentioned implementation of rights is still strongly influenced by the reality of the existing social structure. Therefore, the struggle to realize the implementation of community rights in solving environmental problems, must be accompanied by an understanding of how this reality influences the implementation of legal rights in the community. This also means there is a need to understand the political dynamics of interaction between various social groups influencing the legal process.

In conclusion, there is a strong relationship between the implementation of legal rights and the power structure. As with political power, environmental rights, as a part of human rights, can not be granted by an authority; they should be taken by the owners of those rights. Therefore, to create public environmental awareness, action at every level of society is very important.

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